

join us to ensure our legislation becomes law and that an unnecessary disease affecting children, the No. 1 environmental disease affecting children in this country, can be eradicated and will go the way of many other childhood diseases because we took action.

Mr. President, I yield the floor.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is to be recognized.

Mr. DURBIN. Mr. President, I ask unanimous consent that order be changed and Senator COLLINS now be recognized for 10 minutes and I follow her with 10 minutes, Senator DORGAN will follow me, and we will see if there is any remaining time in morning business beyond that.

The PRESIDING OFFICER. Without objection, it is so ordered. Under those circumstances, the Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I thank my colleague from Illinois for his courtesy.

(The remarks of Ms. COLLINS and Mr. DURBIN pertaining to the introduction of S. 1231 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, is there time remaining under Senator COLLINS' 10-minute allocation?

The PRESIDING OFFICER. There is no time.

Mr. DURBIN. I ask unanimous consent to be allocated 5 additional minutes, for a total of 15 minutes, and then Senator DORGAN for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. DURBIN. Mr. President, it is interesting. Prior to my speech, the Senator from New Jersey and the Senator from Rhode Island talked about lead poisoning and public health. The Senator from Maine has discussed Medicare, and now I want to discuss the Patients' Bill of Rights. There have been three speeches in a row on health care. It sounds like a pretty important issue to me.

Frankly, for many Americans, it is the most important issue. But the sad reality is that the Senate spends a lot of time on speeches when it comes to health care and almost no time when it comes to debating legislation to make things better.

If you are watching this proceeding or are within the sound of my voice and you can say in the last year I had a problem in my family with health insurance coverage or I know someone in my family who did, do not believe you are in the minority. In fact, almost 50 percent of Americans say they have had problems with their managed care health insurance.

What kind of problems? Coverage. If there is a problem, a medical problem,

will the managed care policy cover it with the care that is necessary, or do you have to go out and hire a lawyer?

On the question of emergency room access, if you belong to a managed care plan, they might tell you, incidentally, you are supposed to go to St. John's Hospital and not Memorial Medical Center and you find yourself in a predicament where Memorial Medical Center is closer to your home in an emergency situation, you better check your policy. You might have just done something, by going to the wrong hospital, in the view of that insurance company, that is going to cost you and your family some money. That should be changed.

Basically, an individual in a family situation who has a medical necessity, a kid who has fallen down with a broken arm or something very serious should not have to fumble through the glove compartment to figure out which hospital to go to for emergency care. That is something we need to address.

The Patients' Bill of Rights proposed by the Democratic side is an attempt to try to address obvious inadequacies when it comes to health insurance and health care in America. I have given a couple of examples—coverage under a health insurance policy and the question of which emergency room you can use. There are many others.

For instance, most people believe when they sit down in the doctor's office, the doctor is being honest with them, the doctor is telling the truth, the doctor is giving his or her best medical judgment. In fact, that relationship and that conversation is really so honored in law, that in a courtroom it is considered a confidential relationship—the doctor-patient relationship. Yet, what has happened is there is another party in the room, although invisible. That other party is a bureaucrat from an insurance company. Many doctors, when they lean over the table and say, you know, I think this is what your son needs, or this is what your wife will need, are not giving you their best medical advice. They are telling you what the health insurance company will pay for and what it will not pay for.

One of the things we address in the Patients' Bill of Rights is ending this physician gag rule. Please, in America, allow doctors to practice medicine. Do not let clerks and insurance companies make crucial medical decisions.

The Illinois State Medical Society invited me several years ago to accompany a local doctor in Springfield, IL, to a hospital and spend a day making rounds. I was a little nervous about it because, frankly, I do not have any business in a hospital room unless I am being treated. But they invited me, and it turned out that most of the patients were happy to see a politician wandering around with their doctors.

But the thing that was an eye-opener at St. John's Hospital in Springfield was when the doctor I was accompanying decided he wanted to keep a

patient in the hospital over the weekend. The lady was in her sixties. She had been diagnosed with a brain tumor that was causing her dizziness. She lived alone.

The doctor said: I'm afraid that if she went home over the weekend before the Monday surgery to remove the tumor, she might fall down and hurt herself. We would have to postpone the surgery. I want to keep her in the hospital so we can take care of her and watch her, and then on Monday perform the surgery.

I am a layman, but that sounded perfectly reasonable.

Before he could make that decision, though, he had to get on the phone and call a clerk at an insurance company in Omaha, NE. You know what the clerk said? "No. Send her home. Tell her to come back Monday morning for the brain surgery."

This doctor could not believe it. He stood at this nurse's station, on that same floor, arguing with that clerk for half an hour. Finally, he slammed the phone down and said: I'm keeping this woman in the hospital. We'll appeal this later on.

What that doctor faced is repeated every day all across America where people who are sitting with these books of insurance regulations are making the decisions—the life-and-death decisions—that we count on when we take ourselves or our family in for medical care.

This has to come to an end. It has to change. We have to say, basically, that health insurance in this country is not going to be driven just by the bottom line in reducing costs, but by the top line of quality medical care; we are not going to take health care away from the professionals and give it to the insurance bureaucrats.

There is legislation pending before the Senate which engages this debate, which says this, the greatest deliberative body in America, is going to come down and debate, once and for all, how to make it right for American families. That bill is mired down in the process and cannot be brought to this floor. As a result, we stand before you today—and I know Senator DORGAN is going to address this as well—in frustration.

What is it we are doing here that is more important than making sure health insurance and health care in America is of the highest quality? We spent 5 days, 5 legislative days, debating the protection of computer companies. Well, it is an interesting challenge in terms of liability and their protection. Can't we spend 5 hours debating whether or not 150 million American families have health insurance protection? Isn't that worth our time and our debate?

Oh, there are differences of opinion here. I see things one way and some on the other side may see it another, but that is what the legislative process is about. Yet, we cannot seem to bring it to the floor so that we can have an honest debate to help America's families.

The other day I called on the Senate majority leader, the Republican leader, TRENT LOTT, to call up this bill before the Fourth of July. We have the bill out there. We know what the issues are. Let's have the debate. Yet, he was not sure he could. I hope he changes his mind. I hope those who were listening to this speech, and others, will decide that it is worth calling their Senators and their Congressmen and telling them: Yes, do something about health insurance.

Incidentally, in the case I mentioned earlier, where that insurance company clerk told the doctor to send the lady home, that if that clerk guessed wrong, and that lady went home, fell down the stairs and had a serious injury, do you know who is liable for that? Do you know who would have to answer in court for that insurance clerk's decision? The doctor—not the insurance company, the doctor.

That is what is upside down, because in America we are all held accountable for our actions. But by a quirk in the Federal law, health insurance companies—many of them are not held accountable for their conduct, not held accountable for their decisions.

Are the doctors upset about this? Are hospitals upset? Wouldn't you be if you wanted to do the right thing for the patient, and the insurance company makes the decision, a wrong one, the patient is injured, and the person sued ends up being the doctor or the hospital?

Frankly, in this country we are all held accountable for our actions. Why should health insurance companies be any different? If they knew they had to answer for their decisions, I think they would make better decisions. I think they would be more sensitive and more responsive. That is one of the key areas of disagreement between Democrats and Republicans on this bill.

Should it be debated? I think so. I would like a vote on it. Let's decide whether health insurance companies shall be held accountable like every other company in America. For some reason, the leadership here in the Senate does not want us to debate this issue. That is a sad reality.

They have come up with a bill, incidentally, which really only covers a third of Americans who are covered by health insurance. So many other Americans just do not have a chance.

Let me give you an example of what I am talking about. If you worked for AT&T, you would be covered by the Republican bill; General Electric, covered by their bill; Wal-Mart, covered by their bill. But other small business employees would be left behind to fend for themselves. Family farmers—I have a lot of them in Illinois—they pay for their own insurance, they pay a lot for it; they would not be protected by the Republican bill. Public school teachers, policemen, women firefighters, in fact all State and local employees would not be covered by the bill that is being proposed by the Republicans.

This is worthy of a debate. Are we going to have a Patients' Bill of Rights that helps all Americans, or are we going to slice off a third of them and say: Well, we're worried about you; we're not worried about your neighbor?

That is worth a debate. That is worth a vote. What is holding this up? It is a decision by some that, before we take this issue under consideration, there has to be an agreement to limit the number of amendments. The Democratic leadership is prepared to limit those amendments. Let's bring it down to a 5-day debate or a 6-day debate. Let's go at it, and go at it seriously.

Yet, I think the underlying reason for the delay is something more serious. There is an old friend of mine and former boss, State Senator Cecil Partee of Chicago, IL, who used to say: In politics, for every decision there is a good reason and a real reason. Well, the good reason is the time of the Senate. The real reason is that many Senators on the other side of the aisle don't want to be forced to vote on some of these tough questions. The insurance companies tell them to vote one way, and they know that when they go back home they cannot explain that vote. That, to me, is the bottom line.

I mentioned the other day in debate a former Congressman, now passed away, a great friend of mine, Mike Synar, who was a Congressman from Oklahoma. He said: If you don't want to fight fires, don't be a fireman. If you don't want to vote on tough issues, don't be a Member of Congress.

These are tough issues, but they are important issues. The American people deserve our best judgment in bringing this debate forward in a Patients' Bill of Rights, to bring it to the floor of the Senate.

Do you remember the debate on gun control? A lot of phony amendments were considered for a week. Finally, they were rejected and a real bill was passed. It is important to do the same thing with the Patients' Bill of Rights.

The PRESIDING OFFICER (Mr. ALLARD). The Senator's time has expired.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota has 10 minutes.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I ask unanimous consent to extend my time by 5 minutes. I see no one else on the floor.

The PRESIDING OFFICER. Objection is expressed by the Chair as a Member of the Senate.

Mr. DORGAN. Mr. President, I will then, at the end of morning business, ask that morning business be extended if necessary.

I have waited to listen to my friend from Illinois, Senator DURBIN, and to add my voice to this call for a debate on the Patients' Bill of Rights. What is the Patients' Bill of Rights? And why is it necessary?

The Senator from Illinois just described the invisible partner in the doc-

tor's examining room or the hospital room. I want to read about this invisible partner because I think it is quite interesting.

A couple of years ago, we had a hearing here in the Congress on the House side. Late in the day, long after the television cameras had been packed up and the lights had been turned off and the crowd had left, a woman came to testify. I want to read part of her testimony. She was a doctor. She said:

My name is Linda Peeno. I am a former medical reviewer and medical director for three managed care organizations. I wish to begin by making a public confession: In the spring of 1987, as a physician, I caused the death of a man.

Although this was known to many people, I have not been taken before any court of law or called to account for this in any professional or public forum. In fact, just the opposite occurred: I was "rewarded" for this. It brought me an improved reputation in my job, and contributed to my advancement afterwards. Not only did I demonstrate I could indeed do what was expected of me, I exemplified the "good" company doctor: I saved a half million dollars!

Since that day I have lived with this act, and many others, eating into my heart and soul. For me, a physician is a professional charged with care, or healing, of his or her fellow human beings. The primary ethical norm is: do no harm. I did worse: I caused a death. Instead of using a clumsy, bloody weapon, I used the simplest, cleanest of tools: my words. The man died because I denied him a necessary operation to save his heart. I felt little pain or remorse at the time. This man's faceless distance soothed my conscience. Like a skilled soldier, I was trained for this moment. When any moral qualms arose, I was to remember: I am not denying care; I am only denying payment.

This from a doctor who served in a managed care organization, making the decisions about whether a patient and a doctor can continue to receive and provide care. That is the invisible presence in that hospital room—someone 1,000 miles away making a decision about profits and losses. This woman says: As a doctor, I caused a man's death and was rewarded for it.

Is this the way medicine should work? The Patients' Bill of Rights says no. Our bill says that every patient in our country, has the right to know all of their medical options, not just the cheapest treatment options. Today many doctors are gagged, told by the managed care organization, you dare not tell that patient what their range of medical options are, because we will not provide coverage for some of the more expensive ones, even though they might be the option that saves that patient's life.

Our Patients' Bill of Rights says let's correct that. Our Patients' Bill of Rights says, when someone is in need of an emergency room and needs medical treatment on an emergency basis, they have a right to get that care.

Not all managed care organizations say that is the case. Jacqueline Lee was hiking in the Shenandoah mountains. She tripped and fell off a 40-foot cliff. She had serious injuries from that

fall—fractures in her arms, pelvis, her skull. She was unconscious. She was airlifted by helicopter to an emergency room, unconscious, with fractures in many bones in her body. The HMO said it would not pay the more than \$10,000 in hospital bills for Jacqueline Lee because she hadn't gotten prior approval for her emergency room treatment.

Think of that. Here is a woman hauled in on a gurney unconscious to an emergency room. The HMO says: Well, we won't pay that bill because you didn't get prior approval for emergency room treatment.

Is there a need for a Patients' Bill of Rights? Is there a need to correct this kind of thing? Of course there is.

Now, the Republicans say: We have a Patients' Bill of Rights. Yes, they do; they sure do. Their Patients' Bill of Rights covers some Americans, covers about 48 million Americans. But there are 113 million Americans who are not covered by their Patients' Bill of Rights.

The Senator from Illinois asked the question: Why can't we bring the bills to the floor and have a debate? The answer is, because some want to control every nuance on the floor of the Senate. They want to control who speaks, when they speak, whether you can offer an amendment, what your amendment says. We have put up with that for far too long.

Speaking only for myself, we are done putting up with it. This is not the way the Senate works. The Senate doesn't have, as the House does, a Rules Committee that becomes the prison for all the amendments and then the warden decides which amendments get let out the door. That is not the way the Senate works.

I have just prepared an analysis of how the Senate has been handling these issues in recent years, compared with the history of the Senate. It is very interesting. Lately, the strategy is to bring a bill to the floor and do what they call "fill the tree," so Senators can't offer any amendments. The only way you can offer an amendment is if the majority leader says: Let me see your amendment. If I like it, you get to offer it; if I don't, you can't offer it.

That didn't happen in the past in this Senate. That is not the way the Senate works. Somebody needs to tell the folks who run this place that we are not going to let them continue to run the Senate that way. We demand that the Patients' Bill of Rights be brought to the floor of the Senate, and we demand the right to offer our amendments. We demand the right to debate them. We say to those who seem to want to keep the doors locked on good public policy issues like this: If you intend to keep doing that, then you are not going to do much business around here.

While folks are brought into emergency rooms unconscious and told by HMOs: We won't pay because you didn't get prior approval, we are told

we can't correct it with a Patients' Bill of Rights. While we have doctors who come to testify before the Congress and say: I am responsible for the death of a person because I withheld treatment and I was rewarded for it under the current system, we are told we don't have the time on the floor of the Senate to bring up a Patients' Bill of Rights, or, if we do have the time, we are going to demand that you get preapproval for your amendments by someone on the other side of the aisle who puts forward a bill that is just a shell.

This Senate is sleepwalking on important issues. We ought to do much better for the American people than to sleepwalk on issues dealing with health care and the Patients' Bill of Rights and education and so many other important issues.

I will come tomorrow to the floor to talk about the farm crisis. This Congress is sleepwalking on the farm crisis as well.

I would like to say to my friend from Illinois, the Patients' Bill of Rights should have been passed by the last Congress. We have been more than patient on this issue.

I ask the Senator from Illinois—I would be happy to entertain a question about the delay here—it seems to me there has been plenty of time to do this. There is just not the will by some to want this to come to the floor.

Mr. DURBIN. If the Senator will yield, I really have two questions.

First, related to the fact that we both have large rural populations in our State, as the Senator from North Dakota understands, the tax laws do not help family farmers pay for their health insurance as they should. We have worked together to try to have full deductibility of health insurance. The family farmer, self-employed person trying to get health insurance coverage has to pay more out of pocket than anyone who works for a corporation, for example, because of our tax laws.

We have the Republican version of this issue, the Patients' Bill of Rights, which doesn't cover these same family farmers and give them protection. So they pay more for their insurance, higher premiums. They pay more out of pocket for it and don't get protection from the Republican Patients' Bill of Rights, whereas the Democratic Patients' Bill of Rights provides this protection.

Mr. DORGAN. If I might also make the point, the Congress has already said Medicare and Medicaid patients will get basic protections. Members of Congress get this protection in their own health care program. If it is good enough for all of those interests—and it is, and necessary—why is it not good enough for the 113 million Americans whom the Republicans say ought not get this help with their Patients' Bill of Rights?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THOMAS. Mr. President, I ask unanimous consent to utilize the remaining time on the Republican side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

SOCIAL SECURITY LOCKBOX

Mr. THOMAS. I thank the Chair.

Mr. President, I am encouraged by what my friends on the other side have said. On an issue they wouldn't let us talk about yesterday—that is called Social Security—they talk about wanting to get things to the floor and get it done—yesterday every one of them voted against moving forward with the lockbox to do something with Social Security. It is a little bit incongruous with what they are saying today. That is one of the real major issues we need to talk about.

I might add, over the last couple of years there has been a Patients' Bill of Rights on the floor. It has been offered. The reason it hasn't gone anywhere is because the other side has to have amendments that have no relevance to the bill, and go on and on. If they would like to pass something, I suggest to them we put something out there, stick to the issue and do it. I see they have disappeared.

Let me talk about Social Security. It seems to me it is one of the things we are focused on; it is one of the things that is on our Republican list to complete this year. We are probably not going to reform Social Security in this session, so we do need to make a move, and the move is the lockbox—to take the surplus that is now all Social Security that comes in this year and seek to ensure that it is used for that purpose. For a very long time, this has not been the case. The money that has come in for Social Security, of course, has been put into Government securities, and has been spent for other things. For the first time in 25 years, we have a surplus, even though it is Social Security. So it is time, I believe, to do something to put that money aside for the purpose for which it is extracted from you and me as taxpayers.

Is the lockbox the ultimate solution? Of course not. But it is a way for us to control what that money is used for, to stop the idea, which the President supports, of \$158 billion in expenditures on other issues using Social Security money.

Everyone knows that we have to do something if we intend to have Social Security in the future for the young people who are now starting to pay, as well as paying the beneficiaries that we now have. It wasn't many years ago that Social Security was thought to be the third-rail politics and nobody could touch it, otherwise they would be dead. Now we come to the realization that if we want to continue this program over the years—particularly so young people beginning to pay and who have many years to look forward to will get some benefit—we have to do something. The sooner we do it, the less